

Adopt Part Env-Ws 905 to read as follows:

PART Env-Ws 905 STANDARDS FOR MANAGEMENT OF MERCURY-CONTAINING AMALGAM

Env-Ws 905.01 Purpose. The purpose of these rules is to reduce the discharge of mercury-containing amalgam into wastewater.

Env-Ws 905.02 Applicability. These rules shall apply to any dental practice where mercury-containing amalgam is applied, altered, maintained, or removed from within the human oral cavity or where mercury-containing amalgam waste is otherwise generated.

Env-Ws 905.03 Definitions. For the purposes of this part, the following definitions shall apply:

(a) “Amalgam separator” means an item of dental equipment designed to remove amalgam particles from the wastewater from the dental practice, so as to reduce the number of amalgam particles and therefore the amount of amalgam entering the sewer system or subsurface sewage disposal system;

(b) “Dental practice” means a business established for the purpose of practicing dentistry, as defined by RSA 317-A:20;

(c) “Department” means the department of environmental services;

(d) “Hazardous waste rules” means Env-Wm 110, Env-Wm 211-215, Env-Wm 351-353, and Env-Wm 400 through Env-Wm 1110; and

(e) “Owner of the practice” means the individual, partnership, corporation, or association who owns the dental practice.

Env-Ws 905.04 Amalgam Separator.

(a) Before any dental practice discharges wastewater containing mercury-containing amalgam residues into a sewer system or to a subsurface disposal system, the owner of the practice shall ensure that such wastewaters are treated by an amalgam separator that:

(1) Is certified by the manufacturer as meeting ISO 11143:1999(E) standards, including the applicable removal efficiency specified in (b) or (c), below; and

(2) Is designed and constructed for the expected volume and flow rate of discharge from the dental practice it serves.

(b) For separators installed on or after December 31, 2003, the amalgam separator shall provide at least a 99% removal efficiency of amalgam by weight.

(c) For separators installed prior to December 31, 2003, the amalgam separator shall provide at least a 95% removal efficiency of amalgam by weight.

(d) The owner of the practice shall ensure that the amalgam separator is installed, operated, and maintained at the dental practice in accordance with the manufacturer's requirements.

(e) Waste amalgam collected by an amalgam separator or by any other filter, trap, or other method, shall be managed as hazardous wastes in accordance with the hazardous waste rules.

Env-Ws 905.05 Certification.

(a) The owner of the practice who installs or arranges for the installation of an amalgam separator at a dental practice shall certify in writing to the department that an amalgam separator has been properly installed in accordance with this part.

(b) The certification required by (a), above, shall be provided to the department within 30 days of completion of installation.

(c) The certification shall:

- (1) Identify the manufacturer and model of amalgam separator installed;
- (2) Include a written description, which may be a sketch, of the location of the amalgam separator in sufficient detail to allow a person not familiar with the location of the amalgam separator to find it;
- (3) Identify the owner of the dental practice and the street address of the dental practice at which the amalgam separator was installed; and
- (4) Identify the maximum flow rate the amalgam separator is designed to treat.

(d) The certification shall be signed by:

- (1) A duly-authorized corporate officer, if the dental practice is a corporation;
- (2) One of the general partners, if the dental practice is a partnership;
- (3) The sole proprietor, if the dental practice is a sole proprietorship; or
- (4) A duly-authorized officer of the association, if the dental practice is a professional association.

Env-Ws 905.06 Waivers.

(a) The rules contained in this part apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation. Subject to (b), below, the owner of the practice may request a waiver of specific rules in this part in accordance with (c) and (d), below.

(b) The owner of the practice shall submit any request for waivers to the hazardous waste rules in accordance with Env-Wm 212.

(c) A request for a waiver shall be submitted to the department in writing.

(d) A request for a waiver shall include the following information:

(1) A specific reference to the section of the rule for which a waiver is being sought;

(2) A full explanation of why a waiver is necessary;

(3) Detailed information showing how the granting of the waiver is consistent with this part; and

(4) A technical analysis demonstrating how any proposed alternate technology, device, or technique provides equivalent or better removal of amalgam waste than strict compliance with this part.

(e) If the request for a waiver is incomplete or provides insufficient information to allow the department to make a decision, the department shall ask for additional information to be provided. The owner of the practice requesting a waiver shall supply the additional information within 30 days of request by the department.

(f) The department shall grant a waiver if:

(1) The proposed alternative technology, device, or technique is adequate to ensure that the purpose of these rules is met and the result provides equivalent or better treatment than strict compliance with this part; or

(2) Through the use of evaporation devices or other technologies, the owner of the practice demonstrates that:

a. There is no wastewater discharge from any dental chair station; and

b. There is no connection from any dental chair station or plumbing fixture that might discharge amalgam waste to a sanitary sewer or subsurface sewage disposal system.

(g) A waiver granted under this section shall apply solely to the rule in this part that is waived, and shall not excuse compliance by the alternative technology, device, or technique with any other applicable federal, state, or local requirements.

Env-Ws 905.07 Effective Date. No wastewater shall be discharged from any dental practice within 6 months of adoption of these rules unless:

- (a) An amalgam separator has been installed in compliance with these rules; or
- (b) A waiver has been obtained in accordance with these rules.

Appendix

Rule	Statute Implemented
Env-Ws 905	RSA 485-A:4, XVIII